IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Bail Appl..No. 4021 of 2007(S)

CP.10/2007 of J.M.F.C.-I,PATHANAMTHITTA
CRIME NO.95/2006 OF ARANMULA POLICE STATION

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PETITIONER/3RD ACCUSED

SANTHOSH,S/O.SADANANDAN,
KONJAMKUZHI HOUSE,EDAYARANMULA,KOZHENCHERRY.

BY ADV. SRI.P.HARIDAS

RESPONDENTS: STATE/COMPLAINANTS

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1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA.

2. SUB INSPECTOR OF POLICE,
ARANMULA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/07/2007 ALONG WITH B.A.NO.4023/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.Nos.4021 & 4023 of 2007

Dated this the 4th day of July, 2007

ORDER

Petitioners are accused 3 and 4 in a crime registered, inter alia, under Sections 308 and 324 I.P.C. The alleged incident took place on 27.02.2006. The petitioners have not been arrested so far. Investigation is complete. Final report has already been filed. Committal proceedings has been registered by the learned Magistrate. Consequent to non appearance of the petitioners, coercive processes have been issued by the Magistrate against the petitioners.

2. The learned counsel for the petitioners submit that the petitioners are absolutely innocent. Their absence earlier was not wilful. They are willing to appear before the learned Magistrate and seek regular bail. But they apprehend that their application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that they have come to this Court with the prayer that directions may be issued under Section 438 and/or 482 Cr.P.C.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned

Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339]. The mere fact that an allegation under Section 308 I.P.C has been included will not ip so facto oust the jurisdiction of the learned Magistrate to consider application for bail on merits and in accordance with law. Position has been made in **Sukumari v. State of Kerala** [2001(1) K.L.T 22].

4. These Crl.M.Cs are, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-